THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No. 25191 of 1998

This writ petition is filed by the workman-petitioner being aggrieved by the award made in I.D.No.172/94 dated 27-11-1995 on the file of the Labour Court-III, Hyderabad insofar as denial of attendant benefits and backwages are concerned.

It is the case of the petitioner that he was appointed as conductor in A.P.State Road Transport Corporation (for short the "APSRTC") and discharged the duties to the utmost satisfaction of the superiors. While so he was drafted to work on the route Ibrahimpatnam to Gattuppal on 21-7-1992 and when he was conducting the bus a check was exercised at stage No.3 at Raipolu and the checking squad found certain cash and ticket irregularities. On the basis of the same a charge sheet was issued enumerating the following charges:

> *" 1. For having failed to observe the rules issue and start, which constitutes a serious misconduct on your part under regulation 28(vi)(a) of APSRTC Employees (conduct) Regulations, 1963.*
>
> *2. For having reissued ticket Nos. 233/682228 to 231 (F4) to four individual passengers after collecting Rs.12/- i.e., Rs.3/- each who boarded the bus at Ibrahimpatnam bound for Dandumailaram which was already accounted in the up journey Narkatpally-Ibrahimpatnam trip at stage No.5 i.e., Dandumailaram closed you in S.R.No.41/2152107 dt. 21-7-92 which constitutes a serious misconduct on your part under Regulations 28 (xxiii) of APSRTC Employees (conduct) Reg.1963.*
>
> *3. For having closed the tray numbers of all denominations without issuing three tickets to the above passengers referred at charge No.2 which amounts a serious misconduct on your part under Regulation 28(xxv) of APSRTC Employees (conduct) Reg. 1963."*

The petitioner submitted a detailed explanation denying the charges. However the 2nd respondent directed to conduct an enquiry into the matter. After conducting the enquiry and on the basis of the report submitted by the enquiry officer the petitioner was removed from service by order dated 4-01-1993. Therefore the petitioner raised an

industrial dispute and filed a petition U/s 2 A (2) of the Industrial Disputes Act before the Labour Court-III, Hyderabad and the same was taken up as I.D.No.172/94. The Labour Court after evaluation of both oral and documentary evidence found that the punishment of removal from service was shockingly disproportionate to the misconduct and granted the relief of reinstatement into service with continuity of service without attendant benefits and back wages. According to the petitioner the award passed by the Labour Court insofar as denying the attendant benefits and back wages are concerned, is arbitrary and illegal.

Though no counter affidavit is filed by the learned counsel for the respondents, it is strenuously contended that the Labour Court itself has taken a lenient view and directed reinstatement into service with continuity of service and without attendant benefits and back wages and that therefore the award passed is just and reasonable and it does not call for interference of this Court under Article 226 of the Constitution of India.

I have given my anxious consideration to the submission made by the learned counsel on either side, perused the award passed by the Labour Court and the other material made available on record.

At the outset I am of the opinion that the Labour Court has not committed any error warranting interference of this Court under Article 226 of the Constitution of India. The charges as such are serious in nature. This is a case of re-issue of tickets i.e., the tickets which are already sold out and utilized in the earlier journey have been utilized for the trip in question by re-issuing them. Re-issuing the tickets is nothing but a pre-meditated act of misconduct. Though the Labour Court after appreciating both oral and documentary evidence came to the conclusion that the charges are proved however, taken a lenient view on the ground that the conductor was not having excess cash at the time of conducting the bus and that the removal from service is disproportionate to the misconduct proved. Therefore the Labour Court denied the back wages and attendant benefits while directing reinstatement of the petitioner with continuity of service. I am of the

opinion that the Labour Court ought not to have interfered with the order of removal passed in a case like this. Since the petitioner has already been reinstated into service and the award passed by the Labour Court is not challenged, the question of interfering with such award does not arise. In the result I am of the opinion that the Labour Court has not committed any legal infirmity in denying back wages, continuity of service and attendant benefits, warranting interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merit and is liable to be dismissed.

The writ petition is accordingly dismissed. No order as to costs.

17th August, 2005

BJ/

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH: AT HYDERABAD

The Hon'ble Sri justice C.V.Ramulu

W.P.No. 25191 of 1998

Dated: 17th August, 2005

Between:

P. Venkateswarlu …Petitioner

And

The Presiding Officer,
Labour Court-III, Hyd. & Ors. …Respondents.